

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JOSEPH DEMASI,

07 Civ. 8049 (WCC)

Plaintiff,

**DECLARATION OF
STEVEN C. STERN**

- against -

JOSEPH BENEFICO, individually, RICHARD
SLINGERLAND, individually, and the VILLAGE OF
PELHAM, New York,

Defendants.

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STEVEN C. STERN, an attorney duly admitted to practice law in the Southern District
Court of New York hereby affirms under the penalties of perjury, the following.

1. I am a partner in the law firm of Miranda Sokoloff Sambursky Slone Verveniots
LLP, attorneys for defendants Joseph Benefico, Richard Slingerland and the Village of Pelham in
the above-referenced case.

2. I submit this Declaration in support of defendants' motion to dismiss this action
pursuant to Fed. R. Civ. P. 12(b)(6) or, in the alternative, granting summary judgment on the
grounds of qualified immunity to defendants Benefico and Slingerland. My information is based
upon the books and records of the Village of Pelham, conversations with its agents and employees,
and the prior proceedings related to this matter.

3. Annexed hereto are the following exhibits relevant to defendants' motion. Each
exhibit is a true and accurate copy of what it purports to be.

4. Annexed hereto as Exhibit A is a copy of the Complaint in this action.

5. Annexed hereto as Exhibit B is a copy of the Decision, Order and Judgment from the Supreme Court, Westchester County *In the Matter of the Application of Joseph DeMasi and Domenic Ragno v. Joseph Benefico, et al.*, Index No: 05-06010 (Adler, J.), dated August 26, 2005.

6. Annexed hereto as Exhibit C is a copy of the decision of the Appellate Division, Second Department *In the Matter of the Application of Joseph DeMasi and Domenic Ragno v. Joseph Benefico, et al.*, 34 A.D.3d 472, 823 N.Y.S.2d 537 (2d Dept. Nov. 8, 2006).

7. Annexed hereto as D is a copy of the decision of the New York State Court of Appeals, denying leave to appeal *In the Matter of the Application of Joseph DeMasi and Domenic Ragno v. Joseph Benefico, et al.*, dated May 3, 2007.

8. Annexed hereto as Exhibit E is a certified letter dated September 11, 2007, from Ernest Stolzer, Esq., attorney for the Village of Pelham, to Jonathan Lovett, Esq., enclosing checks for payment of back wages due to plaintiff pursuant to the decision of the Appellate Division, Second Department *In the Matter of the Application of Joseph DeMasi and Domenic Ragno v. Joseph Benefico, et al.*, together with copies of the referenced checks.

9. Annexed hereto as Exhibit F is a copy of the Affidavit of Richard Slingerland, submitted in connection with the above-referenced Article 78 proceeding, with the exhibits that accompanied that Affidavit denoted as Exhibits "I" through "S". This affidavit and exhibits were marked in the Record on Appeal in that case as pages 29-38 and 69-90. The exhibits to Mr. Slingerland's affidavit that referenced Dominic Ragno are not included in this exhibit, as Mr. Ragno is not a plaintiff in this case.

10. For the reasons set forth in the accompanying memorandum of law, defendants respectfully submit that their motion to dismiss should be granted and this action dismissed in its

entirety or. In the alternative, defendants Benefico and Slingerland respectfully submit that they are entitled to qualified immunity from liability.

WHEREFORE, defendants Joseph Benefico, Richard Slingerland and the Village of Pelham respectfully request that this Court dismiss this action in its entirety, together with such other and further relief it deems proper and just.

Dated: Mineola, New York
December 17, 2007

A handwritten signature in black ink, appearing to read "Stu C. Stern", written in a cursive, stylized font.

STEVEN C. STERN [SS 2573]
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